

Specifically, Applicants respectfully submit that the term “gusset” is adequately defined in the specification to make the claims definite as written in the specification. For example, paragraph [0020] explains the term “gusset”. As explained in paragraph [0020] and depicted in Figure 4, gusset 86 extends laterally inward from the forward portion 82 of each side support 40 and includes an integral tab 88 extending upwardly from the gusset. Additionally, as explained in paragraph [0023], when shelf 38 is extended, forward stop tab 110 contacts gusset tab 88 and prevents further outward movement of extension of shelf 38. Applicants submit, however, that paragraphs [0020] and [0023] are broader than interpreted by the Examiner since the gusset performs a stopping function in addition to a support function. With respect to the arguments set forth with respect to Claims 1-11, Applicants respectfully submit that one of ordinary skill in the art would understand what is meant by the phrase “a plurality of gussets extending inwardly from each of said side supports and a gusset tab extending from each of said gussets and configured to contact a portion of the shelf thereby blocking further forward movement of the shelf.” Accordingly, Applicants submit that Claims 1-11 are definite and particularly point out and distinctly claim the subject matter which Applicants regard as their invention.

The rejection of Claim 7 under 35 U.S.C. § 112, second paragraph is respectfully traversed. Claim 7 has been amended to depend from Claim 3 thus providing proper antecedent basis for the recitations of the claim.

For the reasons set forth above, Applicants respectfully request that the Section 112 rejection of Claims 1-11 be withdrawn.

The rejection of Claims 12-21 under 35 U.S.C. § 112, first paragraph is respectfully traversed. Specifically with respect to paragraphs [0020] - [00241] and Figures 2-9, Applicants submit that one of ordinary skill in the art would understand the relationship between the tabs as they relate to the shelf side supports. With respect to the arguments set forth with respect to Claims 12-21, Applicants respectfully submit that one of ordinary skill in the art would understand what is meant by the phrase a shelf comprising a forward tab and a rear tab and a shelf side support comprising a rear portion and a forward portion. With respect to the arguments set forth with respect to Applicants’ description of the rear tab being

parallel to shelf axis however appearing curved, Applicants respectfully submit that the orientation of the body of the rear tab as a whole is parallel to the axis, even though a portion has a curved surface. Accordingly, Applicants submit that Claims 12-21 are adequately defined in the specification to enable the claims as written in the specification.

For the reasons set forth above, Applicants respectfully request that the Section 112 rejections of Claims 12-21 be withdrawn.

The rejection of Claims 1 and 3-5 under 35 U.S.C. § 102(b) as being anticipated by Fish et al. (US 5,813,741) is respectfully traversed.

Fish describes a shelf assembly (22) that includes a support frame (42), a first pivotable shelf (44), and a second slidable shelf (46). The support frame includes first and second lateral support members (48 and 50), a central support bracket (52), a support member (54), and a cross brace (56). The first lateral support member includes a V-shaped projection (64) that includes a pair of notched openings (68). Notably, the second lateral support member includes a V-shaped projection (78) but does not include a pair of notched openings (68). The first shelf includes hinged members (70) that extend through the notched openings on the first lateral support members. Notably, the first shelf is not slidable. The second shelf includes stops (144) that engage the cross brace to limit movement of the shelf. Notably, the second and central support brackets are not configured to allow the stops to pass through a notched openings.

Claim 1 recites "a system for limiting outward movement of a slide-out shelf, said structure comprising a plurality of side supports configured to support the shelf, each said side support comprising a ledge comprising a clearance portion...a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf."

Fish et al. do not describe nor suggest a system for limiting outward movement of a slide-out shelf, wherein the structure includes a plurality of side supports configured to support the shelf, wherein each of the side supports include a ledge including a clearance portion and a plurality of support members configured to rigidly connect the side supports

and contact at least a portion of the shelf thereby blocking forward movement of the shelf. Specifically, Fish et al. do not describe nor suggest a plurality of side supports configured to support the shelf, wherein each of the side supports include a ledge including a clearance portion. Rather Fish et al. describe a notched ledge configured to house a hinge. For the reasons set forth above, Claim 1 is submitted to be patentable over Fish et al.

Claims 3-5 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 3-5 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 3-5 likewise are patentable over Fish et al.

For the reasons set forth above, Applicants respectfully request that the Section 102 rejection of Claims 1 and 3-5 be withdrawn.

The rejection of Claims 1, 2, and 6-11 under 35 U.S.C. § 103 as being unpatentable over Kolbe et al. (US 5,340,209) in view of Liang et al. (US 6,457,790) is respectfully traversed.

Kolbe et al. describe a slide assembly (20) that includes a shelf structure (27) mounted on a pair of supports (23 and 24) in a refrigerated compartment (14). The shelf structure includes a shelf plate (33) that is encapsulated by a rim (34). A unitary latch member (44) interacts with the support (23) and the rim to facilitate shelf operation. During extension of the shelf, the latch engages a slot (66) in flange (40) of the rim. Notably, Kolbe does not describe a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf.

Liang et al. describe a shelving system including three separate members, an outer member (10), and intermediate member (20), and an inner member (30). The members may coaxially lengthwise slide one another. The intermediate member is slidably received in the outer member for supporting inner member in a sliding relationship. A flexible strip (40) is mounted on an inner wall (31) of inner member. A pair of opposite tabs (32a and 32b) are formed in the inner wall of the inner member and thus securing the flexible strip to the inner member. Notably, Liang et al. does not include a ledge comprising a clearance portion.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. Obviousness cannot be established by merely suggesting that it would have been an obvious to one of ordinary skill in the art to modify Kolbe et al. according to the teachings of Liang et al. More specifically, it is respectfully submitted that a prima facie case of obviousness has not been established. As explained by the Federal Circuit, "to establish obviousness based on a combination of the elements disclosed in the prior art, there must be some motivation, suggestion or teaching of the desirability of making the specific combination that was made by the applicant." In re Kotzab, 54 USPQ2d 1308, 1316 (Fed. Cir. 2000). MPEP 2143.01.

Moreover, the Federal Circuit has determined that:

[I]t is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention."

In re Fitch, 23 USPQ2d 1780, 1784 (Fed. Cir. 1992). Further, under Section 103, "it is impermissible . . . to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 147 USPQ 391, 393 (CCPA 1965). Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the cited art, nor any reasonable expectation of success has been shown.

Although it is asserted within the Office Action that Kolbe et al. teach the present invention except for disclosing a plurality of gussets and gusset tabs configured to contact a portion of the shelf to block further movement, and that Liang et al. discloses an integral gusset, no motivation nor suggestion to combine the cited art has been shown. Since there is no teaching nor suggestion in the cited art for the claimed combination, the Section 103

rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicants request that the Section 103 rejection of Claims 1, 2, and 6-11 be withdrawn.

Furthermore, Applicants respectfully submit that no motivation for the combination can be found within Kolbe et al. and Liang et al., as Kolbe et al. and Liang et al. teach away from each other. Kolbe et al. describe a slide assembly that includes a shelf structure mounted on a pair of supports in a refrigerated compartment. Specifically, Kolbe et al. do not describe nor suggest a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf, but rather Kolbe et al. describe a unitary latch member that interacts with the support and the rim to facilitate shelf operation. Furthermore, Kolbe et al. describe that the latch member engages a slot, rather than passing through the slot.

In contrast, Liang et al. describes a shelving system including three separate members, an outer member, and intermediate member, and an inner member. Specifically, the intermediate member is slidably received in the outer member for supporting inner member in a sliding relationship.

If art "teaches away" from a claimed invention, such a teaching supports the nonobviousness of the invention. U.S. v. Adams, 148 USPQ 479 (1966); Gillette Co. v. S.C. Johnson & Son, Inc., 16 USPQ2d 1923, 1927 (Fed. Cir. 1990). In light of this standard, it is respectfully submitted that the cited art, as a whole, is not suggestive of the presently claimed invention. More specifically, Applicants respectfully submit that Liang et al. teaches away from Kolbe et al., and as such, there is no suggestion or motivation to combine Kolbe et al. with Liang et al.

Further, and to the extent understood, no combination of Kolbe et al. and Liang et al., describes or suggests the claimed combination, and as such, the presently pending claims are patentably distinguishable from the cited combination. Specifically, Claim 1 recites "a system for limiting outward movement of a slide-out shelf, said structure comprising a plurality of side supports configured to support the shelf, each said side support comprising a

ledge comprising a clearance portion...a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf.”

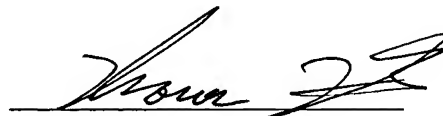
The combination of Kolbe et al. and Liang et al. does not describe nor suggest a system for limiting outward movement of a slide-out shelf, wherein the structure includes a plurality of side supports configured to support the shelf, wherein each of the side supports include a ledge including a clearance portion and a plurality of support members configured to rigidly connect the side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf. No combination of Kolbe et al. nor Liang et al. describes or suggests a plurality of side supports configured to support the shelf, wherein each of the side supports include a ledge including a clearance portion. Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Kolbe et al. in view of Liang et al.

Claims 2 and 6-11 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2 and 6-11 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2 and 6-11 likewise are patentable over Kolbe et al. in view of Liang et al.

For the reasons set forth above, Applicants respectfully request that the Section 103 rejection of Claims 1, 2, and 6-11 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rakesh Mathur, et al.

Art Unit: 3632

Serial No.: 10/074,245

Examiner: March, Steven M.

Filed: February 12, 2002

For: SPILL PROOF SHELF
ASSEMBLY METHOD AND
STRUCTURE

RECEIVED

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GROUP 3600

SUBMISSION OF MARKED UP PARAGRAPHS AND CLAIMS

Hon. Commissioner for Patents
Box Non-Fee Amendment
Washington, D.C. 20231

Submitted herewith are marked up paragraphs and claims in accordance with 37 C.F.R. Section 1.121(b)(1)(iii) and 1.211(c)(1)(ii), wherein additions are underlined and deletions are [bracketed].

IN THE SPECIFICATION

On page 1, please delete paragraph [0001] and replace with the following paragraph:

[0001] This invention relates generally to shelves and, more particularly, to extendible shelves for use in refrigerators.[This invention relates to generally]

On page 4, please delete paragraph [0020] and replace with the following paragraph:

[0020] Each ledge 48 includes a surface 76 upon which shelf 38 (shown in Figure 2) may slide. An inner surface 78 of supports 40 is substantially perpendicular to ledges 48, and shelf 38 is retained to side supports 40 partially above and partially below ledges 48 and between inner surfaces 78 as described further below. Each ledge 48 further includes a rear portion 80 having a first width, a forward portion 82 having a second width smaller than the first width, and a track clearance 84 having a third width smaller than the second width. A gusset[s] 86 extends laterally inward from the forward portion 82 of each side support 40 and includes an integral tab 88 extending upwardly from gusset 86. Tabs 88 are substantially

adjacent to support member 44, and together facilitate preventing shelf 38 from extending beyond a fully a fully extended position.

IN THE CLAIMS

1. (Once amended) A system for limiting outward movement of a slide-out shelf, said structure comprising:

a plurality of side supports configured to support the shelf, each said side support comprises a ledge comprising a clearance portion; and

a plurality of support members configured to rigidly connect said side supports and contact at least a portion of the shelf thereby blocking forward movement of the shelf.

3. (Once amended) A system in accordance with Claim 1 wherein said portion of the shelf comprises at least one of a forward stop tab and a rear tab, whereby said tabs are at least one of integral and unitary.

7. (Once amended) A system in accordance with Claim [1]3 wherein each said [side supports each comprise a ledge comprise a]clearance portion [having]comprises a width providing a clearance for said forward tab.

12. (Once amended) A slide-out shelf assembly comprising:

a shelf comprising a first side, a forward tab laterally extending a first distance from said first side, and a rear tab laterally extending a second distance from said first side, said second distance less than said first distance; and

a first shelf side support comprising a laterally projecting ledge for sliding engagement with said shelf first side, said projecting ledge comprising:

a rear portion having a first width sufficient to retain said rear tab; and

a forward portion having a second width less than said first width and providing a clearance for said rear tab and further providing a clearance for said forward tab, said clearance having a third width providing a clearance for said forward tab.

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14. (Once amended) A shelf assembly in accordance with Claim 13 wherein said forward and rear tab extend laterally outward from said shelf first side, and said first side support ledge extends laterally inward over said forward and rear tab when said shelf is in a retracted position.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Thomas M. Fisher', written over a horizontal line.

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